

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 10, 2016**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1st Ave W, Kalispell, Montana. Board members present were Marie Hickey-AuClaire, Kevin Lake, Ron Schlegel, Dean Sirucek and Greg Stevens. Jim Heim had an excused absence. Mike Horn was absent. Mark Mussman and Erik Mack represented the Flathead County Planning & Zoning Office.

There were 6 people in the audience.

**APPROVAL OF
MINUTES
6:01 pm**

Larsen made a motion, seconded by Sirucek to approve the January 13, 2016 meeting minutes.

**ASK THE
QUESTION**

Sirucek asked the question.

**ROLL CALL
VOTE
APPROVAL OF
MINUTES**

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)
6:02 pm**

Bob Storer, 2088 Riverside Road, current chair of the Flathead River Commission. The county had formed a commission seven years ago mainly to deal with flooding, erosion and water quality issues on the lower 22 miles of the Flathead River. He asked if the board was going to discuss updating the floodplain regulations at this meeting. He wanted to let the board know the commission was very passionate about these issues and would very much like to offer comments and recommendations on the update for the regulations. A sub group of the commission had recently met with Mussman and he believed Mussman had agreed to attend one of the River Commission meetings to update the commission on the progress. The next meeting was March 21, 2016. He wanted to reiterate the commission wanted to be involved in the update and was interested in the process from this point forward.

Hickey-AuClaire and Mussman discussed when the update would be discussed by the board at the meeting. She told Storer

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 10, 2016**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1st Ave W, Kalispell, Montana. Board members present were Marie Hickey-AuClaire, Kevin Lake, Ron Schlegel, Dean Sirucek, ~~Jim Heim~~ and Greg Stevens. Mike Horn was absent. Mark Mussman and Erik Mack represented the Flathead County Planning & Zoning Office.

There were 6 people in the audience.

**APPROVAL OF
MINUTES
6:01 pm**

Larsen made a motion, seconded by Sirucek to approve the January 13, 2016 meeting minutes.

**ASK THE
QUESTION**

Sirucek asked the question.

**ROLL CALL
VOTE
APPROVAL OF
MINUTES**

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)
6:02 pm**

Bob Storer, 2088 Riverside Road, current chair of the Flathead River Commission. The county had formed a commission seven years ago mainly to deal with flooding, erosion and water quality issues on the lower 22 miles of the Flathead River. He asked if the board was going to discuss updating the floodplain regulations at this meeting. He wanted to let the board know the commission was very passionate about these issues and would very much like to offer comments and recommendations on the update for the regulations. A sub group of the commission had recently met with Mussman and he believed Mussman had agreed to attend one of the River Commission meetings to update the commission on the progress. The next meeting was March 21, 2016. He wanted to reiterate the commission wanted to be involved in the update and was interested in the process from this point forward.

Hickey-AuClaire and Mussman discussed when the update would be discussed by the board at the meeting. She told Storer they would discuss the update later in the meeting under either

old or new business.

**WINTER PARK
VENTURES /
MAJESTIC
VALLEY LLC
(FZC-15-07)
6:04 pm**

A zone change request by Sands Surveying, Inc., on behalf of Winter Park Ventures and Majestic Valley, LLC in the Highway 93 North Zoning District. The proposal would change the zoning on three parcels containing approximately 134.78 acres from SAG-5 (Suburban Agricultural) to B-2 (General Business). The parcels are located at 3630 Highway 93 North near Kalispell, MT, just north of Church Drive.

STAFF REPORT

Mack reviewed Staff Report FZC-15-07 for the Board.

**BOARD
QUESTIONS**

Stevens and Mack talked about the discussion Mack and Mussman had with Tom Jentz, director of Kalispell Planning and Zoning, concerning Kalispell annexing the property as B-3 and if anyone would rely on the comments submitted by Kalispell concerning the application. They also discussed how the Riverdale Land Use Advisory Committee (LUAC) addressed policy 7-7 and policy 15-8. The policies concerned allowing a mixed use development with a Planned Unit Development (PUD). Riverdale felt B-3 allowed for a mixture of uses that it was ok with the zone change.

Mack said they did not address individual policies.

Stevens and Mack discussed if the Riverdale LUAC was concerned with a PUD overlay and if they were ok with a B-3 zoning in place.

Stevens was troubled by the statement from Jentz that they were not going to give them anything unless the applicant came in with a PUD. Jentz's comment was against any type of business activity that would compete with anything in the city of Kalispell. He asked if local businesses in the area complained about possible competition.

There had not been any comments received from local businesses in the application's area.

Sirucek asked Mack to discuss what a PUD was.

Stevens said a PUD was not needed to do an overlay. All that needed to be done was have an overlay which stated at the time of development a plan was presented. He explained where PUDs were used as placeholders. There were no specifics on the

development whatsoever until the applicant decided what they wanted to do. Then they would have to come back to the board and present what they wanted to do.

Mack said they could do a PUD at the time they subdivided. That process would be very similar to a zone change process.

Sirucek said it was still a very much focused planned development at a finer scale.

Mack agreed. He said PUDs were discussed in the zoning regulations in section 3.31.

Stevens said in his opinion, a PUD was a barbed wire fence that cut a developer up, down and sideways. It was something to be cautious with. On the other hand, it offered them a little bit more flexibility because the PUD zoning was the actual zoning. The applicant may be relieved of some of the requirements as long as the underlying uses were maintained.

Sirucek said it seemed to him a PUD took away some of the uncertainty of what would happen there.

Larsen and Mack discussed options concerning PUDS, if there was a mechanism to ensure the PUD was carried through, what may be required by Kalispell if they were annexed in the future and what would be required and the process with a PUD and zone change. They also discussed where the Highway 93 North zoning district ended and if the property was in the district.

Mack noted and guided the board to the map of the Highway 93 North zoning district in the staff report.

APPLICANT PRESENTATION

Erica Wirtila, Sands Surveying, represented the applicant. She reviewed where the property was located, previous boundary line adjustments, where city limits were and where the accesses were located. She explained the reasons why the applicants had decided to submit the application before the board. The applicants had always been up front about having bigger plans for the property than what it was currently used as. In 2011 they had gone to the city of Kalispell and asked if the city would annex them. The city council had just adopted their annexation policy and told them they would not annex farther than Church Drive. They were declined annexation. The city manager at that time had offered the applicants a letter which said the applicants

had been turned down for annexation, but they would still like to work with them for offering city sewer services. The letter said maybe sometime in the future when the applicants were ready to develop they could access the sewer. The applicants had the letter and the only thing they had done so far was to pay to have Kalispell sewer and water pipes stubbed under Church Drive to have possible access to city water and sewer in the future.

The Parkers were at a point where they would like to possibly market the property to a developer. Their mantra was to eat, sleep and compete all at the facility. They wanted everything associated with competitions to be able to be done on the property. What they would like to do was open a small hotel, have a restaurant and maybe a car wash. That had always been their plan. That was what they had approached Kalispell about in 2011 and that was still their ultimate dream. They would like to retire and have the place carry on as a successful facility.

They moved forward with a bid for B-3 which was a neighborhood business zone. It allowed both residential and commercial uses to that property. If they wanted to put a motel on the property, that would be a conditional use permit application. The restaurant was allowed. If they wanted something like duplexes, multi-family or accessory apartments, that would also require a conditional permit. She reviewed what was located around the property and why they were asking for B-3 which was very comparable to the Kalispell zoning.

They had gone to a town council workshop and visited with the council on the past history, the letter from the city manager and how they felt about that. At the end of the workshop the applicants felt things were at least amicable. The city was maybe amenable to changing the annexation line. Maybe the line wasn't so hard and fast down Church Drive. Maybe they would amend their Growth Policy to allow some of that community business. She said she would look at that with a wary eye. The annexation took over two years to adopt. They had been reviewing their Growth Policy for the last two years as well. The applicants did not have that kind of time. There was not an application which could be filled out to ask the city to change their annexation boundary. The applicants had been told a pretty hard no in 2011. They felt the door with the city had been firmly shut. They had explained that position at the workshop and she felt they had received the message that they were between a rock and a hard place. They had tried the rock, now they were at the

hard place.

To attract a developer, the property could not remain zoned SAG-5. It had to be zoned business. No one would purchase the property zoned the way it was and gamble on a zone change in the future. This was grooming the property for a developer to come in, under the control of the applicants, to create their dream plan.

The reason they did not submit a PUD was because it was hard zoning and took a lot to remove if the development fell through. She explained the give and take of a PUD. It was too soon in the plans to submit a PUD and they felt uncomfortable in trying to restrict a future developer in what they could do. Submitting a PUD was recommended in the Growth Policy through the Riverdale Neighborhood Plan. The Growth Policy was a non-regulatory document, a guiding document only. There was a discussion about the applicants not bringing forward a PUD at the Riverdale LUAC meeting. If the city was to change its annexation policy and growth policy and the applicants were to come before them and ask to be annexed, the city would require them to build everything to city standards. A PUD plan would need to be in place. Kalispell would have total control if city sewer services were utilized. At this point, the applicants were not even at the drawing board as far as a plan.

She listed all of the events which had happened at Majestic Valley Arena over the years which had become the performing arts center of the valley. The events included four High School graduations, five Fresh Life Easter services which were about 5,000 people at each of the services, two large funeral services, many Christian and country concerts, motor cross, Fight Nights, Monster Truck shows, Shriners Circus coming in July 2016, two famous horse trainers, the boat show, the RV show, holiday extravaganza every year in December and horse shows. All of these events were in addition to the high school rodeos, the regular rodeos, reining's, cuttings, maturities and all the different horse events they could think of. For one weekend out of last year, the Chamber of Commerce conducted an economic study when the high school rodeo was in town. They looked at four days and how much money that event brought into the city of Kalispell. There was a 39% increase of people staying in hotels and 1.1 million dollars was generated into Kalispell just in those four days with people spending money in local retail, restaurants and staying in hotels around the area. That was the high school

rodeo where the people usually stayed in their horse trailers and ate a lot of mac and cheese. If that number could be taken and extrapolate the cutters and reiners who came to the valley with \$200,000 rigs and \$20,000 to \$30,000 animals, they were bringing a lot of money into town.

She did not agree with Jentz's comment about this project being in competition with the businesses in Kalispell. The arena was a great boon to business people in town. Folks in Kalispell have made a lot of money off of the Majestic Valley Arena. It was rare there was a vacant weekend at the arena. The mixed use designation of the Riverdale plan was residential use mixed in with commercial use. She gave examples of how this mix would happen and the benefit of having the mixed uses.

The concerns of Mr. Jentz's that the change in zoning would open up the area for retail establishments were not realistic. There were 5,000 head of cattle on the nearby property on some weekends. People would not want to shop at a large box store which was located next to that many cattle. The Parkers kept an immaculate facility and it did not smell like a feed lot. That was not the place for big box retail. The people, who were responsible for those stores, looking for locations, were not going to pick that property.

The uses the Parkers would like to see on the property were very specific and ancillary uses to the arena. The Parkers along with their right hand man, Dave Kerr, were available for questions.

BOARD QUESTIONS

Stevens and Wirtila discussed if mixed land use land category in the Riverdale Neighborhood Plan was lot specific, if the whole area could be mixed use and one lot less mixed and the role of a PUD through the city and how it would be developed.

Larsen and Wirtila discussed the differences in the Riverdale Plan concerning development, how they could develop the area without a PUD and the letter from the city of Kalispell. The applicants were not objecting to submitting a PUD when they had a plan. They also discussed when a PUD would be triggered, and the comment from Kalispell concerning spot zoning and the Riverdale Neighborhood Plan.

Jan Parker, 6495 Farm to Market Road, said the reason they did not come before them with a PUD was because their mantra for the property was to eat, sleep, and compete. She explained they

were trying to get a hotel on the property. They did not want anything large, something like 75 rooms with a small restaurant. It would be an ancillary use to the arena where the people at the arena would not have to get back onto the highway. They also wanted to have a small sub store where the people could pick up their grain, maybe some hay or supplements. They also had plans for a possible automated carwash for the trucks and trailers which came to the property to attend events. They needed to change the zoning to have an hotelier interested in the property. She reviewed how they arrived at applying for a B-3 zone change. They knew they needed to go through a PUD and were not opposed to the process. She wanted to correct Mr. Jentz. They were denied annexation. They did not want to be annexed, but they did want water and sewer. The city had turned them down flat. Then the city manager gave them the letter which said that they could sign a waiver of annexation and they would have sewer and water as long as there was capacity. She said there was plenty of capacity. Then the city offered, if she paid \$12,000 while Church Drive was being reconstructed, sewer and water would be piped under the drive. She asked why a business person would spend the money and effort to have water and sewer piped under Church Drive if they had not gotten the letter and verbal assurances that they would have the right to water and sewer. They did stub underneath Church Drive, she thought the letter was valid, the verbal assurances were valid and they did not want to be annexed into the city. They did not mind the city building specifications; the arena was already built beautifully. Only the highest standard of building would be encouraged on the property. Whoever the hotelier was who built on the property would have to honor their agreements with the Parkers. She did not see a big problem with the zoning designation or the mixed use. Their motivation had always been to keep the people on the property near their horses.

Stevens and Parker discussed the possibility of an RV park with SAG-5 zoning.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Hickey-AuClaire confirmed no further written comment had been received.

Mayre Flowers, Citizens for a Better Flathead, was against the application.

Sirucek and Flowers discussed Flowers comment during the public comment that there was no build out analysis which supported the need for more commercial property.

Larsen and Flowers discussed what zoning should be looked at when deciding what was compatible, city or county and why.

Hickey-AuClaire, Larsen, Stevens and Flowers discussed where the stipulation for hooking up to municipal city services was and what that stipulation pertained to with the application.

**APPLICANT
REBUTTAL**

Wirtila said concerning a connection with city sewer, there were a late comer's agreement fees with Silverbrook. Anyone who hooked into the water and sewer which had been established by Silverbrook had to pay a pretty stiff fee. She did not know how that would pencil out, but she thought it would be pretty expensive.

There were other commercial properties available. Her clients did not own those properties. She did not think when looking at compatible zoning types, when a property had a PUD on it that was a highly individualized contract between the governing bodies and that developer. She explained further. It was very hard to make generalized comparisons between the commercial lands available.

She did not see this application as a competition with the city. The more competitions and events going on at the arena, the more benefit there was to the city. The Parkers were not competing with Kalispell. They would have a very specific clientele that utilized the property. What was on the property would not be someone from the general public that would pull into the motel and want to stay for the night. This would be a place which was marketed to the people who were at the arena competing for a specific event.

Concerning commercial development along the Highway 93 stretch, this was a well-loved facility with thousands of people attending events every weekend of the year. If there was no public need for the arena, it would not have the events it did. It was successful at what it did. They paid about \$80,000 a year in property tax, they have been a good neighbor and have always said what they were going to do and will do.

She was surprised the discussion centered so much about the city because this property was in the county jurisdiction and they were the county planning board. That was why the application was before them. The applicants had tried going to Kalispell, and Kalispell had said no very firmly. Not that much time had passed and it was hard for them to understand why all of the sudden Kalispell had a big turnaround in their view. Kalispell worked for two years on their annexation policy. It was difficult to think they would entertain something and move forward quickly. She also found it irritating that her client had offered the city assurances on what they will do and everybody was saying her client could change her mind, but they were to take the assurances Kalispell provides and take that as the whole hearted truth. It was a fine line for all of them to walk.

**STAFF
REBUTTAL**

Hickey-AuClaire, Mack, Mussman and Wirtila discussed at length the county's definition of Industrial Park and PUDs in general.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC-15-07)**

Stevens made a motion seconded by Schlegel to adopt staff report FZC-15-07 as findings-of-fact.

**BOARD
DISCUSSION**

Stevens read from the Growth Policy and discussed at length how the board and application was doing what the policy laid out. The board had to look at the intent of the plans, however at the bottom of every page it was stated it was not regulatory. He did not feel they were inconsistent with the policy. The plans were inconsistent. A person could always find something consistent with one part and inconsistent with another part. As far as he was concerned, if they were in compliance with the bulk of the plan, they were doing pretty good. The applicant had been caught in limbo between the county and Kalispell with the question of could they get services. Would they have to redo their PUD if they did get services because now they were under a different set of regulations? He did not see a problem with the findings of fact. The location of the application was not in the city and the city did not have anything in the area which could provide the services the application property could to the arena and Raceway Park. The location was ideal for what the Parkers planned. He was amazed they could make something which had so much going for it, so complicated. He thought the findings of fact were pretty good. He was in favor of the application.

Larsen said his biggest struggle was that the policy said the applicant needed a PUD. He explained how they had put together the Growth Policy and the consulting group which was hired to review it had said a person could take the policy and find support for both sides of a proposal. He would defer to the Riverdale LUAC because they had anticipated issues like this. It was difficult on PUDs. Unless they had something specific they wanted to do, it was very difficult to bring in a PUD. He went on to explain the difficulty. The application met lot policies of both the Riverdale Plan and Growth Policy. He explained how having what the Parkers planned for the property would benefit the people who attend events at both the arena and the raceway. He did not see a problem with the application meeting the county requirements. The board needed to consider nearby municipalities, it did not say they had to be in compliance with them. The board was considering it now. The requirement was to be compatible. They did not have to come up with another zoning designation to be compatible. Compatible was similar types and uses. Another business zoning was more compatible with the city zoning as opposed to an AG designation. He would support the application. His only issue he struggled with was they did not have a PUD but he did not think they would ever find a proposal which would meet every goal and policy of the growth policy and neighborhood plans because some of the goals and policies were opposite of each other.

**ASK THE
QUESTION**

Sirucek asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-15-07)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FZC-15-07)**

Stevens made a motion seconded by Lake to adopt Staff Report FZC-15-07 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Stevens wanted to say if the complications were taken out, the application fit so well with the area. It seemed to him as he read the letter from Kalispell, the thing they were most concerned with was it created an unfair playing field for the businesses inside

city limits. Jentz suggested in the letter, the board table the application and go through a growth policy amendment and a city limits boundary adjustment. He thought that would be a long time to drag this on. He did not think it appropriate to drag a property owner through the mud for 10 years on an application. He did not see any problem with changing the zoning.

Hickey-AuClaire said the arena had hosted the wedding expo and weddings as well. The economic effect of weddings and destination weddings in the valley was huge. She recounted her experience with weddings and the amount of revenue they had brought to her business which was a small part of the overall money spent in the valley on the larger weddings. Facilities were needed in the valley for these events and to have a place for the people to stay on site was huge. All of the amenities would benefit all the people in the area and traveling through the area to other parts of the valley. It would keep people from traveling the roads unnecessarily, especially if impaired. She would support this application because it was a great location. The Parkers had commented on having a hotel on site consistently for many years. She thought it would be great place to have a hotel.

Schlegel said Church Drive connected to Highway 93 and he thought it was amazing they had stubbed out a road to the east to take on more traffic to the east. Right now it went nowhere. It looked like more traffic was anticipated on that road. That comment in the letter did not hold any water to him at all. What this project would also help would be the West Valley volunteer fire department since the larger developments had been annexed in and took money away from the department and gave it to the city. As far as being unfair, he felt it was the other way around. Things were unfair to the county, not the city. That was his opinion. It was a great location. He did not think the applicants needed to be run around the bush anymore.

Stevens said if it was true that the city council had changed their mind about annexation, then the question was moot and there would be a PUD on the thing anyway if city services were used.

Hickey-AuClaire said competition was good. That was how things got better. Competition was healthy and forced improvement.

Stevens said government policy and regulations changed and people should not stake the whole farm on them. Zoning changed and policies changed. He had seen it happen time and time again. He gave examples.

**ROLL CALL
VOTE TO
APPROVE
(FZC-15-07)**

On a roll call vote the motion passed 5-1 with Sirucek dissenting.

**BOARD
DISCUSSION**

Hickey-AuClaire reviewed the process the application would follow from this point on.

The board took a break at 8:08 pm.

**OLD BUSINESS
8:16 pm**

Mussman said he was on the agenda to speak with the River Commission in March. An update on the floodplain regulations was a little different than some of the other regulations in that they had to go through the board, commissioners, the state and FEMA.

Stevens said he was not prepared to get into a discussion on the floodplain regulations at this meeting. It was his understanding the board was going to do as they were told.

Mussman said what the county had been told was to follow the state model. He would be prepared at a later date when it was an agenda item. He explained the regulations would not change much from what they currently were.

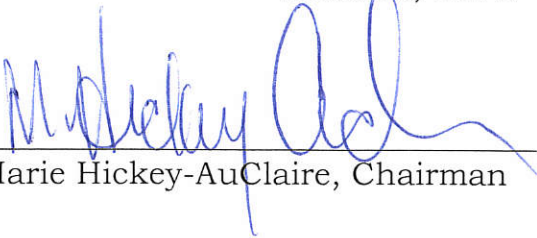
The board and Mussman discussed his meeting with the River Commission, and an invitation to talk with the Conservation District. They had discussed the office's administration of policies, compatibility, public's interest in the floodplain and lakeshore and the benefit of separating consideration of the two regulations. They also discussed at length how to proceed with the updates and timelines.

Mussman updated the board on the request for a zone change on the Highway 93 south corridor outside of Whitefish and other options for the property owners.

**NEW BUSINESS
8:33 pm**

None.

ADJOURNMENT The meeting was adjourned at approximately 8:34 pm. on a motion by Larsen. The next meeting will be held at 6:00 p.m. on March 9, 2016.


Marie Hickey-AuClaire, Chairman


Mary Fisher, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 3 / 9 / 16